

**IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT
OF TENNESSEE AT KNOXVILLE**

RUSTIN G. JACKSON

PLAINTIFF,

V.

No. 3:04-CV-344

**STATE OF TENNESSEE, COUNTY OF
CAMPBELL, CITY OF JACKSBORO, AND
DUSTIN ROSE AND BILLY MARLOW, IN
THEIR INDIVIDUAL CAPACITIES**

DEFENDANTS.

ANSWER

Defendant City of Jacksboro hereby appears, by and through counsel, and responds to the Complaint for violations of constitutional rights filed by the Plaintiff against this Defendant as follows:

1. The allegations in paragraph 1 of the Plaintiff's Complaint for violations of constitutional rights fail to state a claim against this Defendant, therefore, no Answer is warranted and none is given. In the event that Plaintiff asserts that there are allegations made in paragraph 1 of his Complaint for violations of constitutional rights against this Defendant, then said allegations are denied and strict proof is required thereof.
2. Any all allegations against this Defendant in paragraph 2 of the Plaintiff's Complaint for violation of the constitutional rights, are denied and strict proof is required thereof.
3. Although it does not appear there are allegations made against this Defendant in paragraph 3 of the Plaintiff's Complaint in violation of constitutional rights, in the event the Plaintiff asserts that there are

indeed allegations against this Defendant, then said allegations are denied and strict proof is required thereof.

4. This Defendant denies the allegations made against it in paragraph 4 of the Plaintiff's Complaint for violations of constitutional rights, and strict proof is required thereof.
5. This Defendant affirmatively denies that the Plaintiff's Complaint states a claim upon which relief may be granted, and the Complaint for violation of constitutional rights filed by the Plaintiff should be dismissed accordingly.
6. This Defendant affirmatively denies that the Plaintiff is entitled to any of the relief requested in his Complaint for violations of constitutional rights, and moves that the Complaint should be dismissed accordingly.
7. It is affirmatively maintained and denied that the Plaintiff has any cause of action pursuant to the Tennessee Constitution, and any and all claims pursuant to the Tennessee Constitution against this Defendant should be dismissed accordingly. Although it is not clear from the Plaintiff's Complaint for violation of constitutional rights, in the event the Plaintiff makes specific allegations against any individual officer Defendant with the City of Jacksboro, then said Officer asserts and maintains the defense of qualified good faith immunity.
8. This Defendant asserts each and every defense it is entitled to under Tenn. Code Ann. §29-20-101 et seq., and said affirmative defense is maintained in the event the Plaintiff alleges any Tennessee State Law Tort Claims.
9. This Defendant demands a jury to try this cause of action.

10. This Defendant reserves the right to amend this Answer upon the ascertainment of additional information, which may be obtained through the discovery process.
11. This Defendant respectfully requests that pursuant to 42 U.S.C. §1988, the Plaintiff be taxed with costs, including, but not limited to attorney's fees.
12. Further, this Defendant asserts the affirmative defense of comparative fault, as adopted by the State of Tennessee, as it pertains to any and all state law tort claims asserted by the Plaintiff. Specifically, this Defendant asserts that actions and/or inactions of the Plaintiff were the primary cause of his alleged damages. Inasmuch, the trier of fact should be allowed to allot percentages of fault against the Plaintiff, and, further, the fault of the Plaintiff should bar the Plaintiff from any recovery.
13. Anything not previously admitted or denied is hereby denied as if fully and completely set out herein.

Respectfully submitted this 9th day of February, 2005.

CITY OF JACKSBORO

s/Benjamin K. Lauderback, BPR NO. 20855
BENJAMIN K. LAUDERBACK
Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 2005, a true and exact copy of this Answer was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system:

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Dated this 9th day of February, 2005.

s/Benjamin K. Lauderback, BPR NO. 20855
BENJAMIN K. LAUDERBACK
Attorney for Defendant